

Applicant Initiated Interview Request Form

Application No.: 09/998,500 First Named Applicant: Beth A. Lange
 Examiner: Michele Kidwell Art Unit: 3761 Status of Application: Final Rejection
Mailed January 26, 2005

Tentative Participants:

(1) Examiner Kidwell (2) Christopher M. Goff (Reg. No. 41, 785)

Proposed Date of Interview: April 5, 2005 Proposed Time: 10:00 (AM/PM)

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc.)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) Rejection	1-71	Buckley et al. Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
[] Continuation Sheet Attached					

Brief Description of Arguments to be Presented:

The specification provides adequate antecedent basis for the claimed limitation "suitable for ingestion" as required by claim 1. While the claimed limitation requiring the composition to be "suitable for ingestion" is not literally found in the specification, Applicants assert that support for the above phrase can be found throughout the originally filed specification. For example, throughout the specification, Applicant's describe the composition as being "ingested by an infant during breast feeding and leading to *improved health* for the child." (Specification as published (U.S. Application No. 2003/0105445) at paragraphs 32 and 37). Further, the composition *cannot be harmful* to a baby if ingested during breast feeding. (See specification at paragraph 41). Additionally, as defined in Merriam-Webster and Webster on-line dictionaries, "suitable" ordinarily means appropriate for a use; proper. Thus, there is support for the claimed limitation of "suitable for ingestion," and further, Applicant's use of the phrase "suitable for ingestion" can be equated with "not harmful; safe" and "appropriate and proper for a use."

Additionally, claims 1-71 are patentable under 35 USC 103(a) over Buckley et al. and further in view of Allen as the Buckley et al. and Allen both fail to disclose each and every limitation of Applicant's claim 1 and there is no motivation to combine the references to arrive at Applicants' invention. Neither cited reference teaches or suggests a composition for use on a breast pad that is suitable for ingestion by a suckling infant. Additionally, one skilled in the art, reading the cited references, would not and could not be motivated to combine the Buckley et al. and Allen references to arrive at Applicant's claim 1. Specifically, Applicant's composition is safely designed or suitable for ingestion by the suckling infant and in fact, can improve the health of the infant. On the contrary, the composition of Allen can be extremely harmful if ingested and thus, is not suitable for the intended use of the instant invention. Further, Applicants' invention is designed such that the composition remains on the surface of the skin and improves breast and nipple skin health. In direct contrast, the Allen composition is designed to penetrate the epithelial barrier and effect the fatty acid metabolism of the subcutaneous adipose tissue. Therefore, there would be no reason to look to Allen for combination with Buckley et al. to arrive at Applicants' invention. Further, Allen actually teaches away from the instant invention. See Applicant's Letter To Patent And Trademark Office filed on November 11, 2004.

An interview was conducted on the above-identified application on

April 12, 2005.

NOTE:

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

(Applicant/Applicant's Representative Signature)

(Examiner/SPE Signature)